

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

**RALPH FIGGS, individually and on
behalf of all others similarly situated**

Plaintiff,

VS.

**KIRBY CORPORATION AND KIRBY
INLAND MARINE, LP**

Defendants.

Docket No. 11-cv-00306

JURY TRIAL DEMANDED

COLLECTIVE ACTION

PURSUANT TO 29 U.S.C. § 216(b)

AGREED MOTION FOR STAY OF PROCEEDINGS

Plaintiff, Ralph Figgs, individually and on behalf of others similarly situated (hereinafter referred to as “Plaintiffs”), and Defendant, Kirby Corporation and Kirby Inland Marine, LP, jointly file this Agreed Motion for Stay of Proceedings and respectfully show as follows.

Plaintiffs allege that Defendant's vessel tankermen are misclassified as exempt employees. On December 7, 2011, this case was certified as a conditional collective action (ECF. No. 26). Opt-in notices were mailed out twice and additional tankermen joined the lawsuit. The parties have exchanged documents and written discovery.

The parties are working cooperatively to complete the necessary steps to resolve this matter by adjudication or agreement. The parties are also mindful of the appeal pending before the Fifth Circuit in the *Blessey* case. Therefore, the parties request a temporary stay of these proceedings to permit them to focus on resolution without incurring additional transaction costs. The parties have agreed to mediation in this matter. Therefore, the parties respectfully request a stay in the proceedings until the Fifth Circuit issues a decision in the *Blessey* case.

Counsel for Plaintiffs

/s/ Michael A. Josephson

Michael A. Josephson
Texas Bar No. 24014780
S.D. Tex. No. 27157
Andrew W. Dunlap
Texas Bar No. 24078444
S.D. Tex. No. 1093163
FIBICH, HAMPTON, LEEBRON,
BRIGGS & JOSEPHSON, LLP
1150 Bissonnet
Houston, Texas 77005
(713) 751-025 [Telephone]
(713) 751-0030 [Fax]
mjosephson@fhl-law.com

Richard J. Burch
Texas Bar No. 24001807
S.D. Tex. No. 21615
BRUCKNER BURCH PLLC
8 Greenway Plaza, Suite 1500
Houston, Texas 77046
(713) 877-8788 [Telephone]
(713) 877-8065 [Fax]
rburch@brucknerburch.com

ATTORNEYS FOR PLAINTIFFS

Counsel for Defendant

/s/ Michael R. Buchanan

Michael R. Buchanan
State Bar No. 03288300
Southern District No. 1674
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
500 Preston Commons
8117 Preston Road
Dallas, TX 75225-4324
214-987-3800
Facsimile: 214-987-3927
Mike.Buchanan@ogletreedeakins.com

John B. Brown
State Bar No. 00793412
Southern District No. 348718
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
500 Preston Commons
8117 Preston Road
Dallas, TX 75225-4324
214-987-3800
Facsimile: 214-987-3927
john.brown@ogletreedeakins.com

Michael D. Mitchell
State Bar No. 00784615
500 Dallas Street, Suite 3000
Houston, Texas 77002
713-655-5750
Facsimile: 713-655-0020
Mike.Mitchell@ogletreedeakins.com

**ATTORNEYS FOR
KIRBY CORPORATION AND KIRBY
INLAND MARINE, LP**

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 7th day of May, 2013, I electronically filed the foregoing with the Clerk of Court using ECF system, which sent notification to all parties of record.

/s/ Michael A. Josephson